

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

CHESTER LOWE HUFF,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-09-139

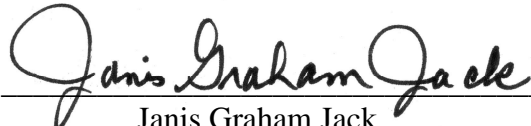
**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION  
TO GRANT RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

On September 22, 2009, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion for summary judgment (D.E. 12) be granted, and that petitioner's habeas petition (D.E. 1) be dismissed with prejudice as failing to state a claim upon which relief can be granted. The Memorandum and Recommendation further recommended that petitioner be denied a certificate of appealability. A copy of the Memorandum and Recommendation was mailed to petitioner with a card to be returned indicating his receipt of the mailing. The card has not been returned by petitioner nor has the mailing been returned by the U.S. Post Office as undeliverable. Therefore, seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that respondent's motion for summary judgment is granted and petitioner's habeas petition is dismissed with prejudice as failing to state a claim upon relief can be granted. Petitioner is denied a certificate of appealability.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 14th day of December, 2009.

  
Janis Graham Jack  
United States District Judge